

DRAFT



CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, AUGUST 20, 2007

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Marraffa, Schlichting (arrived 7:50 p.m.), and Sesma. Council Members Absent: Edens. Planning Commissioners present: Bauer, Hopkins, and Lanier. Staff present: City Manager Humpton, Assistant City Manager Felton, Planning and Code Administration Director Ossont, Planning Director Pruss, Planners Patula and Marsh, Environmental Services Director Shingara, Parks, Recreation, and Culture Director McGleish, Aquatic Community Facilities Director Bullough, Capital Projects/Facilities Director Geiling, Community Development Director Kauffmann, Affordable Housing Coordinator Boyle, City Attorney Borten and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by former City Council Member Blanche Keller.

II. INVOCATION

The invocation was led by Maxine Oliver, Baha'i Faith.

III. APPROVAL OF MINUTES

Vote was deferred on the August 6, 2007 minutes until the next meeting.

IV. CONSENT ITEM

Resolution of the Mayor and City Council Authorizing the City Manager to Extend a Contract for Cleaning of City Facilities

This resolution authorized the City Manager to extend an existing contract until November 15, 2007 with the terms and conditions of IFB 2002-020, for cleaning services at City facilities with Full-Brite Cleaning Services, Inc., PO Box 10325, Gaithersburg, Maryland 20877, in the amount of Sixty-Seven Thousand Thirty-Seven Dollars (\$67,037); said funds to be expended from the Operating Budget.

Motion was made by Council Member Alster, seconded by, Council Member Sesma, that Consent Agenda (Resolution No. R-86-07, be approved.

Vote: 3-0

V. APPOINTMENTS**Resolution Confirming Appointments to the Board of Supervisors of Elections**

This resolution confirms the following appointments: Bill Larson, 21 Beacon Hill Way and Barbara Fahey (alternate), 217 Rabbitt Road, Gaithersburg, Maryland 20878, four-year terms.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS TO THE BOARD OF SUPERVISORS OF ELECTIONS (Resolution No. R-87-07), be approved.

Vote: 3-0

VI. OATH OF OFFICE

Mayor Katz administered the Oath of Office to Bill Larson and Barbara Fahey (Alternate), to serve on the Board of Supervisors of Elections. The appointed members will serve four-year terms.

VII. PRESENTATIONS**1. Habitat for Humanity of Montgomery County MD, Inc.**

John Paukstis, Executive Director for the above organization, gave a brief presentation on the activities of the organization and provided a PowerPoint presentation for review. The organization is a private non-profit corporation, worldwide builder of modest homes. The Montgomery County corporation was established in 1982. He stated that the service at worksites depend on volunteers from individuals, businesses, faith groups, schools, service clubs and youth groups. Their mission is to provide affordable housing in Montgomery County. Habitat for Humanity-Montgomery County (HfH) serves low-income range of \$33,100 to \$54,800 (established by HUD guidelines), providing 31 total units of affordable housing. Homes are sold to owners with 30 year, no interest mortgages, one percent down payment, equity sharing plan over the life of the mortgage, and 150 to 350 house of sweat equity is required of each partner family. He stated that there is a family selection committee to review applications received from those families demonstrating the need for housing. He further stated that land acquisition is a challenge. Property is purchased from the County and City or is donated by individuals, builders, or faith groups. The organization also partners with builders and developers for multi-family units. Fundraising for such services come from financial contributions, in-kind donations, grants, business/corporate sponsorships, estate planning and endowments, habitat ReStore, and special events. For additional information contact HfH located at 9110 Gaither Road, Gaithersburg, Maryland 20877-1422, www.habitat-mc.org, 301-990-0014.

2. Gaithersburg Aquatic/Recreation Center Revised Concept Plan

Mayor Katz invited the Planning Commission to join the City Council at the dais for this agenda item. Director of Parks, Recreation, and Culture McGleish stated that based on feedback and further review of the plan during the work session held April 30, 2007, a revised concept plan was completed.

Suman Sorg, Sorg and Associates, P.C., architectural firm for the project, provided a three dimensional PowerPoint presentation of the revised concept plan. The revised plan included a revised site/landscape plan, interior space layouts and floor plans, interior and exterior views of the building, 173 parking spaces, access and exit from the building, leisure pool design concepts, and revised conceptual elevations. Proposed exterior building materials were also presented to the Mayor and City Council and Planning Commission for feedback. She also addressed the concerns and questions raised at the above mentioned work session. Changes were made to the viewing seats within the building, use of opaque glass to provide light into the gymnasium, use of

the terrace for functions, and a glass wall from the lobby into the aquatic center. She stated that in order to keep the cost of the building down, glass was gathered from other parts of the building to be used for the façade along Route 28. Ms. Sorg was asked to provide staff with interior views of the gymnasium and a list of buildings in the area that have used the type of exterior material proposed for the project. In response to questions, Ms. Sorg stated that the firm is working with the mechanical engineers regarding access to the proposed second story terrace, explained the parking lot tiers which will require a small percentage of leveling and dropping, stated that the proposed sundeck to the south will be off of either pool, and that a vegetative roof is not physically impossible, but the cost has to be considered. She further stated that green building design principles and thermal energy features are being used for the proposed project.

Director of Parks, Recreation, and Culture McGleish stated that the project is on schedule. Staff anticipates going before the Planning Commission in the fall and a construction contract is scheduled to be award during early FY '09. Site development and construction is budgeted at \$19 million (with allowances for inflation) to be expended during FY '09 and FY '10. The facility is scheduled to be completed in late FY '10.

Motion was made by Council Member Sesma, seconded by, Council Member Schlichting, to approve the revised concept plan for the Gaithersburg Aquatic/Recreation Center and directed staff to the formally submit the preliminary and final site plan to the Planning Commission.

Vote: 4-0

VIII. PUBLIC APPEARANCES

1. *Timothy Bodison, 12 West Deer Park*, referred to the City's Homeownership Assistance Program and suggested allowing residents to move outside of Montgomery County and still receive assistance.
2. *Thomas Cowley, 14617 Devereaux Terrace, AIM Representative*, expressed appreciation for the City allowing AIM to participate in the upcoming housing fair and the time and efforts of its members to be involved with the Broadstone tenant relocation. He stated that in the high cost housing market, it would be difficult for many of the tenants to become homeowners, especially in Montgomery County. He expressed that it is critical that the City consider the homeownership of the tenants in Montgomery County when establishing limits and deciding whether the assistance will be a loan or grant.
3. *Pamela Kaczmariski, 11127 Captains Walk Court, AIM Member*, expressed concern with the high cost of living in Montgomery County and asked the City to be generous to the tenants due to down payments and closing cost required.

IX. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Sesma

1. Commended City Police Officers (Lumsden, Bellard, Marion, Rude) and Community Outreach Specialist Ingram for being recognized at the Gaithersburg-Germantown Chamber of Commerce Public Safety Awards.
2. Reminded the public that school opens for students August 27th and wished all the young and college students all the best during the 2007-2008 school calendar year.

Council Member Schlichting

Announced that the City's 69th Annual Labor Day Parade will be held in Olde Towne Gaithersburg on September 3, 2007, 1 p.m., rain or shine. He stated that free parking and shuttle bus service will be available. Additional information on all activities can be viewed on the City's website at www.gaithersburgmd.gov or call 301-258-6350.

Council Vice President Alster

Echoed congrats to City Police Officers for the outstanding work done by the department on a daily basis and asked the public to be aware of the students walking to and from schools.

Council Member Marraffa

1. Participated in the Agricultural Fair Parade and recognized his neighbor for winning 1st prize for his tomatoes and two ribbons on his beets.
2. Recognized former Council Member Blanche Keller for her recent artwork displayed at the Fair.

Mayor Katz

1. Echoed congrats to the Police Officers, Elena Ingram, and former Council Member Keller.
2. Stated that the City has only received letters of interest from the incumbents seeking renewals to serve on the Planning Commission and Board of Appeals. He stated that the deadline has past to apply and asked staff to schedule the reappointments for a vote at the next Mayor and City Council meeting.
3. Announced the following meeting schedule:
 - no work session on Monday, August 27, 2007.
 - regular meeting of the Mayor and City Council on Tuesday, September 4, 2007 due to the Labor Day holiday on Monday.

X. FROM THE CITY MANAGER

Thanked the Gaithersburg/Germantown Chamber of Commerce for hosting the 2007 Public Safety Awards ceremony mentioned above. He reported that Community Outreach Specialist Elena Ingram received the Meritorious conduct Award; Corporal Dwight Lumsden, Officers Matthew Bellard and Joseph Marion of the Gaithersburg Police Department along with Officer Peter Camp of Montgomery County Police's 6th District received Distinguished Service Citations; and Sergeant Randy Rude received the Distinguished Service Award. City Manager Humpton congratulated those mentioned above and noted Chief King's presence at the ceremony.

XI. PUBLIC HEARING**Resolution of the Mayor and City Council to Amend Section 27 of the City Charter to Modify the Procedures for Registering to Vote in City Elections**

Assistant City Manager Felton stated that the public hearing was advertised in the August 1, 2007 issue of the *Gaithersburg Gazette*. The Board of Supervisors of Elections has recommended that the City Charter be amended to modify the procedures to register to vote in City Elections. The proposed Charter amendment would eliminate the City's voter registry to reflect current practices whereby all City residents who participate in City Elections are registered with the Montgomery County Board of Elections.

There were no speakers from the public. Staff recommended holding the record open until 5 p.m. on August 29, 2007, with final action anticipated on September 4, 2007.

Motion was made by Council Member Marraffa, seconded by, Council Member Sesma, that the Mayor and City Council record on the above, be closed on August 29, 2007, 5 p.m.

Vote: 4-0

RECESSED THE MAYOR AND COUNCIL MEETING AT 8:34 P.M.
AND RECONVENED AT 8:50 P.M.

XII. ORDINANCES, RESOLUTIONS, AND REGULATIONS**1. Resolution for Stream Restoration Design Services**

This resolution authorized the City Manager to enter into a contract for the above services with Rummel, Klepper & Kahl, LLP, 81 Mosher Street, Baltimore, Maryland 21217, in an amount not to exceed Eighty-Four Thousand Sixty-Five Dollars (\$84,065); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Schlichting, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR STREAM RESTORATION DESIGN SERVICES (Resolution No. R-88-07), be approved.

Vote: 4-0

2. Resolution to Administer a Residential Redevelopment Homeownership Assistance Program for Residents Displaced by Residential Redevelopment

Assistant City Manager stated that based on guidance received at the July 16, 2007 work session, staff has worked with the Housing Opportunities Commission (HOC) to refine the Homeownership Program with the following key provisions:

1. Rather than an outright grant, the program should offer a zero interest deferred loan. Repayment would occur when the homeowner sold the home or refinanced; however, homeowners would be able to access a one-time home equity line of credit not to exceed \$10,000 without triggering repayment.

2. Displaced residents would have the opportunity to access this program for a period of three years after they are displaced as long as they submit a certificate of interest by a specified date.
3. Loans to families earning up to 80% of Area Median Income (AMI) would be funded with Community Development Block Grant funds.
4. Loans to families earning more than 80% of AMI would be funded via earmarked City funds.

He mentioned that there was a consensus at the work session that families purchasing within the City of Gaithersburg should be eligible for higher loan amounts than families purchasing outside of Gaithersburg, there was not consensus on how large of a loan should be made available. Subsequent to the work session, staff completed an analysis dated July 19, 2007 that outlined the affordability of homes at 80% and 60% of AMI. Based on the analysis, staff recommended that families earning 80% or less of AMI receive loans up to \$20,000 if purchasing within the City, and up to \$15,000 loans if purchasing outside the City. For families making more than 80% of AMI, staff recommended up to \$15,000 for purchases within the City and up to \$10,000 for purchases outside the City.

Mr. Felton further stated that staff recently met with representatives of AIM and several Broadstone tenants and a number of their suggestions are accommodated in the proposed program, but staff is not supportive of their recommendation to make a portion of the loans forgivable or of their recommendations to permit loans as high as \$40,000. He referred to comments received from the public in regards to purchasing outside the County and stated that staff does not believe that many would choose to go outside of the County and HOC programs will not be accessible outside of the County. Several Council Members suggested that the decision to allow tenants to move outside of the County be dealt with on a case-by-case basis and directed staff to move forward with the current City Homeownership Assistance Program. Concerns were expressed regarding the County's Planning Board proposed impact tax toward new affordable housing. Staff was asked to create a spread sheet on closing cost to be used if and when the program is amended. City Manager Humpton thanked staff and AIM representatives on their time and effort to develop the program.

This resolution authorized the City Manager to immediately negotiate, and thereafter, execute a contract with the Housing Opportunities Commission, 10400 Detrick Avenue, Kensington, Maryland 20895, to provide administration and oversight of the City's Residential Redevelopment homeownership Assistance Program, in an amount not to exceed Three Hundred Thousand Dollars (\$300,000) in City funds and an additional One Hundred Thousand Dollars (\$100,000) in Community Development Block Grant funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Alster, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH THE HOUSING OPPORTUNITIES COMMISSION TO ADMINISTER A RESIDENTIAL REDEVELOPMENT HOMEOWNERSHIP ASSISTANCE PROGRAM FOR RESIDENTS DISPLACED BY RESIDENTIAL REDEVELOPMENT (Resolution No. R-89-07), be approved.

Vote: 4-0

3. Resolution Awarding Matching Grants

This resolution authorized the City Manager to award matching grants to the Gateway Commons HOA for landscaping ((\$3,395), Kentlands Condominiums II (Town Homes) for landscaping (\$722), Kentlands Condominiums IV for irrigation system (\$3,086), Lakelands Ridge HOA for landscaping (\$5,000), and the Greater Historic District for community event (\$500), upon determining that the projects were completed as proposed, in the total amount of Twelve Thousand Seven Hundred and Three Dollars (\$12,703); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Marraffa, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AWARDING MATCHING GRANTS TO GATEWAY COMMONS HOA, KENTLANDS CONDOMINIUMS II (TOWN HOMES), KENTLANDS CONDOMINIUMS IV, LAKELANDS RIDGE HOA, AND THE GAITHERSBURG GREATER HISTORIC DISTRICT (Resolution No. R-90-07), be approved.

Vote: 4-0

4. Resolution Changing the Effective Date of Ordinance O-7-07

City Attorney Borten stated that on June 18, 2007, the City Council adopted emergency Ordinance O-7-07 changing the effective date of Section 15-9, as set for in Section 15-9(f), in order to allow time for the Attorney General's Office to provide an opinion on the constitutionality of Section 15-9 prior to enforcement by the City. The Ordinance also provided that any future changes to the effective date, could be implemented by resolution of the Mayor and City Council. She stated that to date, the City has not received an opinion from the Attorney General's office and the deadline is approaching. The proposed resolution would postpone the effective date of 15-9 until November 1, 2007. Council Member Marraffa expressed concern with delaying action and waiting for the opinion by the Attorney General's office. It was stated that the State's Attorney Office is the one that would prosecute the law and the City's Ordinance would not be recognized until an opinion is received from the Attorney General's office on the constitutionality of the City's Ordinance. Concerns were expressed with taking action at this time and making false arrest.

Motion was made by Council Member Sesma, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL CHANGING THE EFFECTIVE DATE OF ORDINANCE O-7-07 ADOPTING SECTION 15-9, AND PROVIDING FOR FUTURE CHANGES TO THE EFFECTIVE DATE BY RESOLUTION (Resolution No. R-91-07), be approved.

Vote: 3-1 (Marraffa)

XIII. POLICY DISCUSSION**1. Resolution of the Mayor and City Council to Amend Section 5 and Section 16 of the City Charter to Increase the Salary of the Mayor and the Members of the City Council and to Create a New Section of 5A of the City Charter to Require the Appointment of the Mayor and City Council Compensation Committee Every Four Years**

The Charter Amendment proposes the following:

- Mayor and City Council consider a Charter Amendment requiring the appointment of a Compensation Review Committee every four years.
- Mayor's salary be increased from \$12,500 per year to \$18,500 per year immediately after the City election in 2009.
- City Council's salary be increased to \$15,000 per year effective immediately after the City election in 2009.
- The Committee recommends a \$500 incremental salary increase for the Mayor and City Council during the "out-years" (2010, 2011, and 2012).

It was noted that the Planning Commission stipend was increased from \$1,500 per year to \$3,000 per year effective July 1, 2007 as recommend by the Compensation Committee.

Motion was made by Council Member Alster, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL TO AMEND SECTION 5 AND SECTION 16 OF THE CITY CHARTER TO INCREASE THE SALARY OF THE MAYOR AND THE MEMBERS OF THE CITY COUNCIL AND TO CREATE A NEW SECTION OF 5A OF THE CITY CHARTER TO REQUIRE THE APPOINTMENT OF THE MAYOR AND CITY COUNCIL COMPENSATION COMMITTEE EVERY FOUR YEARS (Charter Amendment No. CA-1-07), be approved.

Vote: 4-0

2. SDP-07-001 - Resolution Granting Approval of an Amendment to SDP-05-003, Known as Casey East (Parcels 360, 563 and N455)

Planning Director Pruss stated that the current application requests approval to redistribute the number and type of dwelling units among the three residential buildings (A, C and R), reduce the height of Building C from seven stories to five stories, increase the Senior Center from 10,000 square feet to 30,000 square feet which also includes an increase in land area from .8 acres to 1.8 acres, and an amendment to the phasing plan. The Mayor and City Council and Planning Commission held a joint public hearing on June 18, 2007. She stated that a final amendment request is a change in the programming for retail uses along the first floor of building A. The change will be from standard retail to community amenities. On July 25, 2007, the Planning Commission recommended approval of the proposed plan with 31 conditions

Motion was made by Council Member Schlichting, seconded by, Council Member Marraffa, that **SDP-07-001**, RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG GRANTING APPROVAL OF AN AMENDMENT TO SCHEMATIC DEVELOPMENT PLAN, SDP-05-003, KNOWN AS CASEY EAST (PARCELS 360, 563 AND N455) IN GAITHERSBURG, MARYLAND. THE APPROVED PLAN IS A MIX OF USES, INCLUDING 382 RESIDENTIAL UNITS, OFFICE, RESTAURANT, RETAIL, SERVICE STATION, AND PUBLIC USES ON APPROXIMATELY 40.10 ACRES OF LAND. THE CURRENT APPLICATION (SDP-07-001) REQUESTS APPROVAL TO

REDISTRIBUTE THE NUMBER AND TYPE OF DWELLING UNITS AMONG THE THREE RESIDENTIAL BUILDINGS, REDUCE THE HEIGHT OF BUILDING C FROM SEVEN TO FIVE STORIES, REDUCE THE MIXED USE RETAIL BY 1,700 SQUARE FEET, INCREASE THE SENIOR CENTER FROM 10,000 TO 29,500 SQUARE FEET, AND AMEND THE PHASING PLAN. THE SUBJECT PROPERTY IS LOCATED NORTHWEST OF THE INTERSECTION OF MARYLAND ROUTE 355 (NORTH FREDERICK AVENUE) AND WATKINS MILLS ROAD, GAITHERSBURG, MARYLAND (Resolution No. R-92-07), be approved with the Planning Commission recommended conditions.

Vote: 4-0

3. **Z-305(o) – An Ordinance to Rezone 8,673 Square Feet of Land From the Existing R-A Zone to the R-90, Parcel 100, Located at 100 Central Avenue**

Planner Marsh gave background on the property and oriented the Mayor and City Council to the site and the requested rezoning. She stated that a joint public hearing was held on July 9, 2007, and the Planning Commission made a recommendation of approval with three conditions during their July 25, 2007 meeting.

Motion was made by Council Member Marraffa, seconded by, Council Member Alster, that **Z-305**, AN ORDINANCE TO REZONE 8,673 SQUARE FEET OF LAND FROM THE EXISTING R-A (LOW DENSITY RESIDENTIAL) ZONE TO THE R-90 (MEDIUM DENSITY RESIDENTIAL) ZONE, UNDER THE OPTIONAL METHOD OF REZONING, IN ACCORDANCE WITH SECTION 24-196 MAP AMENDMENTS) AND SECTION 24-198 (OPTIONAL METHOD) OF THE CITY CODE. THE PROPERTY IS CURRENTLY KNOWN AS PARCEL 100, IN THE OAKMONT SUBDIVISION, LOCATED AT 100 CENTRAL AVENUE, IN THE CITY OF GAITHERSBURG (Ordinance No. O-11-07), be approved with the recommended three conditions.

Vote: 4-0

XIV. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:27 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant